

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

**GREGORY KELLY  
PLAINTIFF,**

**VS.**

**COLLECTCORP CORPORATION**  
**DEFENDANT**

**CIVIL ACTION NO.**

## JURY TRIAL DEMANDED

## UNLAWFUL DEBT COLLECTION PRACTICES

## COMPLAINT FOR DAMAGES

## INTRODUCTION

1. This is an action for damages against the Defendant for violations of the Federal Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 et seq.

## SUBJECT MATTER JURISDICTION

2. Subject matter jurisdiction in this Court is proper pursuant to 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1337 (federal question jurisdiction).

## PARTIES AND PERSONAL JURISDICTION

3. Plaintiff is a resident of this state who is authorized by law to bring this action.

4. Defendant COLLECTCORP CORPORATION is a corporation organized pursuant to law doing business in the state of Missouri (hereinafter, said Defendant is referred to as "COLLECTCORP").

5. COLLECTCORP is subject to the jurisdiction and venue of this Court.

6. COLLECTCORP may be served by personal service upon its registered agent located in the state of Missouri, to wit: The Corporation Company, 120 South Central Ave., St. Louis, MO 63105.

7. Alternatively, COLLECTCORP may be served by personal or substitute service pursuant to the Federal Rules of Civil Procedure and, as applicable, the laws of the state of Missouri.

**FACTS COMMON TO ALL CAUSES**

8. COLLECTCORP uses telephone communications in its business.

9. The principle purpose of COLLECTCORP business is the collection of debts.

10. COLLECTCORP regularly collects or attempts to collect debts owed or due, or asserted to be owed or due, another.

11. COLLECTCORP is a debt collector subject to the provisions of the Fair Debt Collection Practices Act.

12. In the course of attempting to collect a debt allegedly due from Plaintiff to another business not a party to this litigation, COLLECTCORP communicated with Plaintiff in a manner which violated the Federal Fair Debt Collection Practices Act.

13. COLLECTCORP left a series of voice messages for Plaintiff on his wife's cell phone voice message system during the time spanning from November 1, 2008 and January 18, 2009. Plaintiff's wife's cell phone number is (314) 629-7444.

14. In all of the voice messages, COLLECTCORP failed to give meaningful disclosure of its identity.

15. In all of the voice messages, COLLECTCORP failed to state that the communication was from a debt collector.

16. In all of the voice messages, COLLECTCORP failed to state that the communication was an attempt to collect a debt.

17. Defendant's communications violate the Fair Debt Collection Practices Act.

18. Plaintiff has complied with all conditions precedent to bring this action.

### **CAUSES OF ACTION**

#### **FAIR DEBT COLLECTION PRACTICES ACT**

19. The acts of Defendant constitute violations of the Fair Debt Collection Practices Act.

20. Defendant's violations of the FDCPA include, but are not limited to, the following:

21. The placement of telephone calls without meaningful disclosure of the caller's identity, in violation of 15 U.S.C. § 1692d(6);

22. The use of any false, deceptive, or misleading representations or means in connection with the collection of any debt, in violation of 15 U.S.C. § 1692e;

23. The use of any false representation or deceptive means to collect or attempt to collect any debt, in violation of 15 U.S.C. § 1692e(10);

24. The failure to make the disclosures in all communications, in violation of 15 U.S.C. § 1692e(11) ; and

25. After a reasonable opportunity for further investigation and discovery, it may appear that Defendant failed to effectively communicate the statement of consumer's rights mandated by 15 U.S.C. § 1692g.

26. As a result of the Defendant's actions, the Plaintiff is entitled to an award of statutory damages, as well as an award of costs and attorney's fees.

**WHEREFORE**, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Statutory damages pursuant to 15 U.S.C. § 1692k;
- B. Costs and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k;
- C. For such other and further relief as may be just and proper.

**VIOLATIONS OF THE TCPA**

27. Plaintiff incorporates herein by reference each and every prior allegation and fact as though fully restated and re-alleged.

28. Defendant's actions violated the TCPA. The violations include, but are not limited to, the following:

- (a) Defendant violated 47 U.S.C. § 227(b)(1)(B) when it left 32 prerecorded messages on Plaintiff's spouse's personal cell phone line without Plaintiff's prior express consent or that of his spouse;

**WHEREFORE**, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Damages pursuant to 47 U.S.C. § 227(b)(3);

**PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY**

/s/ Gregory Kelly

**Gregory Kelly**

Respectfully submitted,

**THE SWANEY LAW FIRM**

/s/ Robert T. Healey

Robert T. Healey

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